

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF TEXAS
BEAUMONT DIVISION

DARRYL PAUL MURRAY §
VS. § CIVIL ACTION NO. 1:05cv329
UNIDENTIFIED OFFICER §

MEMORANDUM OPINION

Plaintiff Darryl Paul Murray, proceeding *pro se*, filed this civil rights action pursuant to 42 U.S.C. § 1983.

Procedural Background

On November 3, 2006, the court entered an order directing plaintiff to submit a supplemental complaint providing additional information concerning his claim. Plaintiff was given 30 days to comply with the court's order. Plaintiff acknowledged receipt of the court's order on November 20, 2006. Plaintiff has not complied with the court's order or otherwise contacted the court.

Discussion

Federal Rule of Civil Procedure 41(b) authorizes the district court to dismiss an action for want of prosecution *sua sponte* whenever necessary to achieve the orderly and expeditious disposition of cases. *Anthony v. Marion County General Hospital*, 617 F.2d 1164, 1167 (5th Cir. 1980). See also *McCullough v. Lynaugh*, 835 F.2d 1126 (5th Cir. 1988). The exercise of the power to dismiss for failure to prosecute is committed to the sound discretion of the court and appellate review is confined solely in whether the court's discretion was abused. *Green v. Forney*

Engineering Co., 589 F.2d 243 (5th Cir. 1979); *Lopez v. Aransas County Independent School District*, 570 F.2d 541 (5th Cir. 1978).

By failing to comply with the order described forth above, plaintiff has failed to diligently prosecute this case. Accordingly, this case should be dismissed for want of prosecution.

Conclusion

For the reasons set forth above, this action will be dismissed without prejudice for want of prosecution. An appropriate Final Judgment shall be entered in accordance with this Memorandum Opinion. If plaintiff wishes to have this case reinstated on the court's active docket, he may do so by filing a supplemental complaint within 30 days of the date set forth below.

SIGNED this the **17** day of **January, 2007**.

A handwritten signature in black ink, appearing to read "Thad Heartfield", written over a horizontal line.

Thad Heartfield
United States District Judge